

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.11523a Operation of type II landfill.

Sec. 11523a. (1) Effective April 9, 1997, the department shall not issue a license to operate a type II landfill unless the applicant demonstrates that for any new unit or existing unit at the facility, the combination of the perpetual care fund established under section 11525, bonds, and the financial capability of the applicant as evidenced by a financial test, provides financial assurance in an amount not less than that required by this section. An applicant may utilize a financial test for an amount up to, but not exceeding 70% of the closure, postclosure, and corrective action cost estimate.

(2) An applicant may demonstrate compliance with this section by submitting evidence, with a form consistent with this part and provided by the department, that the applicant has financial assurance for any existing unit or new unit in an amount equal to or greater than the sum of the following standardized costs:

(a) A standard closure cost estimate. The standard closure cost estimate shall be based upon the sum of the following costs in 1996 dollars, adjusted for inflation and partial closures, if any, as specified in subsections (4) and (5):

(i) A base cost of \$20,000.00 per acre to construct a compacted soil final cover using on-site material.

(ii) A supplemental cost of \$20,000.00 per acre, to install a synthetic cover liner, if required by rules under this part.

(iii) A supplemental cost of \$5,000.00 per acre, if low permeability soil must be transported from off-site to construct the final cover or if a bentonite geocomposite liner is used instead of low permeability soil in a composite cover.

(iv) A supplemental cost of \$5,000.00 per acre, to construct a passive gas collection system in the final cover, unless an active gas collection system has been installed at the facility.

(b) A standard postclosure cost estimate. The standard postclosure cost estimate shall be based upon the sum of the following costs, adjusted for inflation as specified in section 11525(2):

(i) A final cover maintenance cost of \$200.00 per acre per year.

(ii) A leachate disposal cost of \$100.00 per acre per year.

(iii) A leachate transportation cost of \$1,000.00 per acre per year, if leachate is required to be transported off-site for treatment.

(iv) A groundwater monitoring cost of \$1,000.00 per monitoring well per year.

(v) A gas monitoring cost of \$100.00 per monitoring point per year, for monitoring points used to detect landfill gas at or beyond the facility property boundary.

(c) The corrective action cost estimate, if any. The corrective action cost estimate shall be a detailed written estimate, in current dollars, of the cost of hiring a third party to perform corrective action in accordance with this part.

(3) Instead of using some or all of the standardized costs specified in subsection (2), an applicant may estimate the site specific costs of closure or postclosure maintenance and monitoring. A site specific cost estimate shall be a written estimate, in current dollars, of the cost of hiring a third party to perform the activity. For the purposes of this subsection, a parent corporation or a subsidiary of the owner or operator is not a third party. Site specific cost estimates shall be based on the following:

(a) For closure, the cost to close the largest area of the landfill ever requiring a final cover at any time during the active life, when the extent and manner of its operation would make closure the most expensive, in accordance with the approved closure plan. The closure cost estimate may not incorporate any salvage value that may be realized by the sale of structures, land, equipment, or other assets associated with the facility at the time of final closure.

(b) For postclosure, the cost to conduct postclosure maintenance and monitoring in accordance with the approved postclosure plan for the entire postclosure period.

(4) The owner or operator of a landfill subject to this section shall, during the active life of the landfill and during the postclosure care period, annually adjust the financial assurance cost estimates and corresponding amount of financial assurance for inflation. Cost estimates shall be adjusted for inflation by multiplying the cost estimate by an inflation factor derived from the most recent United States department of the interior, bureau of reclamation composite index published by the United States department of commerce or another index that is more representative of the costs of closure and postclosure monitoring and maintenance as determined appropriate by the department. The owner or operator shall document the adjustment on a form consistent with this part as prepared by the department and shall place the documentation in the operating record of the facility.

(5) The owner or operator of a landfill subject to this section may request that the department authorize a

reduction in the approved cost estimates and corresponding financial assurance for the landfill by submitting a form consistent with this part and provided by the department certifying completion of any of the following activities:

(a) Partial closure of the landfill. The current closure cost estimate for partially closed portions of a landfill unit may be reduced by 80%, if the maximum waste slope on the unclosed portions of the unit does not exceed 25%. The percentage of the cost estimate reduction approved by the department for the partially closed portion shall be reduced 1% for every 1% increase in the slope of waste over 25% in the active portion. An owner or operator requesting a reduction in financial assurance for partial closure shall enclose with the request a certification under the seal of a licensed professional engineer that certifies both of the following:

(i) That a portion of the licensed landfill unit has reached final grades and has had a final cover installed in compliance with the approved closure plan and rules promulgated under this part.

(ii) The maximum slope of waste in the active portion of the landfill unit at the time of partial closure.

(b) Final closure of the landfill. An owner or operator requesting a cost estimate reduction for final closure shall submit a certification under the seal of a licensed professional engineer that closure of that landfill unit has been fully completed in accordance with the approved closure plan for the landfill. Within 60 days of receiving a certification under this subsection, the department shall perform a consistency review of the submitted certification and do 1 of the following:

(i) Approve the certification and notify the owner or operator that he or she may reduce the closure cost estimate to zero.

(ii) Disapprove the certification and provide the owner or operator with a detailed written statement of the reasons why the department has determined that closure certification has not been conducted in accordance with this part, the rules promulgated under this part, or an approved closure plan.

(c) Postclosure maintenance and monitoring. The owner or operator of a landfill unit who has completed final closure of the unit may request a reduction in the postclosure cost estimate and corresponding financial assurance for 1 year or more of postclosure maintenance and monitoring if the landfill has been monitored and maintained in accordance with the approved postclosure plan. The department shall, within 60 days of receiving a cost estimate reduction request grant written approval or issue a written denial stating the reason for denial. The department shall grant the request and the owner or operator may reduce the postclosure cost estimate to reflect the number of years remaining in the postclosure period unless the department denies the request and the written denial states that the owner or operator has not performed the specific tasks consistent with this part, rules promulgated under this part, and an approved plan.

(6) The owner or operator of a landfill subject to this section may request a reduction in the amount of one or more of the financial assurance mechanisms in place. If the combined value of the remaining financial assurance mechanisms equals the amount required under this section, the department shall approve the request.

(7) An owner or operator requesting that the department approve a financial assurance reduction under subsection (5) or (6) shall do so on a form consistent with this part and provided by the department. The department shall grant written approval or, within 60 days of receiving a financial assurance reduction request, issue a written denial stating the reason for the denial.

History: Add. 1996, Act 359, Imd. Eff. July 1, 1996;—Am. 2013, Act 250, Imd. Eff. Dec. 26, 2013.

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